

Arizona Board of Fingerprinting 2005 Report on Good Cause Exception Application Caseload and Approvals

SECTION ONE – INTRODUCTION AND METHODOLOGY

Arizona Session Laws 2005 (First Regular Session), Chapter 246, Section 5, established a reporting requirement for the Arizona Board of Fingerprinting (“Board”). Each year, on or before December 1, the Board is required to report the number of good cause exception applications received and granted between October 1 and September 30. The report must break these data down according to the programs listed in A.R.S. § 41–619.51(6). Each program listing must also include a list of the offenses in A.R.S. § 41–1758.03(B) and (C) for which an applicant submitted a good cause exception application and the Board granted a good cause exception.

The report that follows complies, to the degree possible, with the legislative requirements. However, the reader is strongly encouraged to read the methodology section below. Without reading this section, the reader might draw conclusions that are not warranted by the data.

Methodology

This report draws on two data sets: (1) good cause exception applications received between October 1, 2004, and September 30, 2005; and (2) good cause exceptions resolved between October 1, 2004, and September 30, 2005. These two sets of data are not coextensive, although there may be some overlap among the cases. Some of the applications received in the relevant time period may not have been concluded by September 30, 2005, and some of the applications concluded in the time period may have been received prior to October 1, 2004.

There are 22 statutory programs for which individuals need fingerprint clearance cards. The Board has adopted a practice of grouping these programs according to similar types of work. The statutory criteria the Board uses when determining whether to grant a good cause exception make no reference to the particular program or programs under which a person applies for a fingerprint clearance card. Moreover, fingerprint clearance cards allow for portability between programs: the fingerprint clearance a charter school employee must receive is the same as that of a certified teacher. Since the clearance cards are portable, the programs under which individuals applied do not have a bearing on the question of whether they should be given a good cause exception. Accordingly, the Board has not systematically tracked the statutory programs under which individuals applied for a fingerprint clearance card. Instead, the Board has adopted a practice of grouping these programs according to similar types of work, as described in Table 1 on the next page.

Table 1
Statutory Programs Grouped by Types of Work

| Program Group | Statutory Program | Agency * |
|--|--------------------------|-----------------|
| Child day care or child nutrition | 41–1964, 46–141 | Econ. Sec. |
| | 46–321 | Education |
| | 36–897.01, –897.03 | Health Svcs. |
| | 36–882, –883.02 | Health Svcs. |
| Child care home provider | 41–1967.01 | Econ. Sec. |
| Child welfare and adolescent behavior health treatment | 8–322 | Supr. Cr. |
| | 46–141 | Econ. Sec. |
| | 36–425.03 | Health Svcs. |
| | 41–2814 | Juv. Corr. |
| Child Protective Services employment | 8–802 | Econ. Sec. |
| Individuals with developmental disabilities | 36–594.01 | Econ. Sec. |
| Domestic violence and homeless shelters | 36–3008, 46–141 | Econ. Sec. |
| Residential or nursing care institutions and home health agencies | 36–411 | Health Svcs. |
| Teacher certification | 15–534 | Education |
| Charter school employment | 15–183 | Education |
| JOBS/JTPA | 46–141 | Econ. Sec. |
| Exceptional Student Services | 15–763.01 | Econ. Sec. |

* The state agency listed is the agency that provides funding or regulates the program. The Department of Education, as referred to here, includes the State Board of Education and the Board of Charter Schools.

The Board has begun more detailed tracking of the programs and will be able to report these data in future reports.

When a person applies for a fingerprint clearance card, he or she normally applies under one or more of the programs listed in A.R.S. § 41–1758(5).¹ Since the person can apply for a fingerprint clearance card (and later, a good cause exception) under more than one program, separate listings under two programs may actually pertain to the same application. For example, John Smith might apply for a fingerprint clearance card under the programs for teacher certification and charter school employment. A.R.S. § 41–619.54(D) (“the reporting statute”) requires the Board to list applications received and granted, broken down by the programs under which individuals applied for a good cause exception. In the case of John Smith’s fingerprint clearance card application, this report would list him once under the program for teacher certification and once under the program for charter school employment. Readers should be aware that aggregating the totals under each program will not yield the total number of applications received. In the example of John Smith, aggregating the totals under each program would make it appear as though John Smith had two applications—one for teacher certification and one for charter school employment.

¹ This list of programs is identical to the list in A.R.S. § 41–619.51(6) and is represented in Table 1.

Table 2
Illustration of Applicants Selecting Multiple Programs for One Application

| Applicant | Day Care | Teacher Certification | Charter School Employment | Total |
|------------------|-----------------|------------------------------|----------------------------------|--------------|
| John Smith | X | X | | 2 |
| Jane Roberts | | X | X | 2 |
| Jack Walters | X | X | | 2 |
| Total | 2 | 3 | 1 | 6 |

Table 2 above illustrates how a single application may appear under multiple programs. If the reader were to add up the total number of applications under each program, he or she would get a sum that is higher than the actual number of applications. In Table 2, adding up the total number of applications under each program would give a sum of six applications, when in fact there are only three applications. Readers should be cautious not to treat the totals under each program as totals of discrete applications.

The reporting statute requires the Board to provide data on the offenses for which there were good cause exception applications submitted and received. The term “offense,” in the context of criminal law, entails a conviction. However, the denial or suspension of a fingerprint clearance card may be based on an arrest, which ultimately may not yield a conviction.² When the denial or suspension of a fingerprint clearance card is based on an arrest, the final disposition of the arrest may not be known. In many cases, documentary evidence is not available because of the length of time that has elapsed since the arrest took place, coupled with courts’ limited schedule for retaining records. Law enforcement agencies and courts do not always report data to the Department of Public Safety (“DPS”) as required, so disposition information may not be available. Also, applicants themselves may not remember the disposition of the arrest, particularly when they have extensive criminal records, arrests that took place many years ago, or backgrounds of substance abuse. For the purpose of this report, when the disposition of an arrest is not known, the arrest is excluded from the data because it is not clear whether an offense occurred. The alternative would have been to include charges where an offense did not occur.

The reporting statute requires the Board to report on the offenses listed in A.R.S. § 41–1758.03(B) and (C). However, individuals who commit offenses listed in subsection B are necessarily prevented from receiving a good cause exception. Therefore, there are no data to report on offenses listed in subsection B.

² See A.R.S. § 41–1758.03(L) (“The division [i.e., the fingerprinting division of the Department of Public Safety] shall not issue a fingerprint clearance card to a person if the division cannot determine, within thirty business days after receipt of the person’s state and federal criminal history record information, whether the person is awaiting trial on or has been convicted of committing any of the offenses listed in subsection B or C of this section. If the division is unable to make the determination required by this section and does not issue a fingerprint clearance card to a person, the person may request a good cause exception pursuant to section 41–619.55”) and A.R.S. § 41–1758.04(C) (“The division shall suspend the fingerprint clearance card of a person who is arrested for an offense listed in section 41–1758.03, subsection B or C”).

SECTION TWO – DATA

1. The reporting statute requires the Board to indicate the number of good cause exception applications it received. The Board received 1,662 applications.
2. The reporting statute requires the Board to indicate that number of good cause exceptions granted. Table 3 below shows the disposition of applications closed.

Table 3
Disposition of Applications Closed

| Disposition | Number of Applications |
|------------------------------|------------------------|
| Denial | 198 |
| Good cause exception granted | 1,169 |
| Class 1 | 6 |
| Class 2 | 2 |
| Fingerprint clearance card | 1,161 |
| DPS issuance * | 35 |
| Applicant withdrew | 255 |
| Total | 1,657 |

* In some cases, based on information it receives subsequent to the denial or suspension of a fingerprint clearance card, DPS is able to issue the card without the applicant having to receive a good cause exception.

3. The reporting statute requires the Board to provide the number of applications received, broken down by the programs listed in A.R.S. § 41-619.51(6). Table 4 on the next page shows the number of applications, broken down by groups of programs, as described in the methodology (see “Section One – Introduction and Methodology” above, especially Table 1).

Table 4
Number of Applications Received by Program Group

| Program Group | No. of Apps. |
|---|---------------------|
| Child day care or child nutrition | 507 |
| Child care home provider | 68 |
| Child welfare and adolescent behavioral health treatment | 271 |
| Child Protective Services employment | 49 |
| Individuals with developmental disabilities | 245 |
| Domestic violence and homeless shelters | 49 |
| Residential or nursing care institutions and home health agencies | 507 |
| Teacher certification | 296 |
| Charter school employment | 106 |
| JOBS/JTPA | 15 |
| Exceptional student services | 28 |

4. The reporting statute requires the Board to provide the number of applications granted, broken down by the programs listed in A.R.S. § 41-619.51(6). Table 5 below indicates the disposition of applications closed.

Table 5
Disposition of Applications Closed by Program Group

| Program Group | No. of Apps. |
|--|---------------------|
| Child day care or child nutrition | 315 |
| Denial | 47 |
| Good cause exception granted | 222 |
| Class 1 | 0 |
| Class 2 | 0 |
| Fingerprint clearance card | 222 |
| DPS issuance | 3 |
| Applicant withdrew | 43 |
| Child care home provider | 92 |
| Denial | 16 |
| Good cause exception granted | 49 |
| Class 1 | 0 |
| Class 2 | 0 |
| Fingerprint clearance card | 49 |
| DPS issuance | 1 |
| Applicant withdrew | 26 |

Table 5 (continued)
Disposition of Applications Closed by Program Group

| | |
|---|------------|
| Child welfare and adolescent behavioral health treatment | 298 |
| Denial | 35 |
| Good cause exception granted | 204 |
| Class 1 | 1 |
| Class 2 | 0 |
| Fingerprint clearance card | 203 |
| DPS issuance | 2 |
| Applicant withdrew | 57 |
| Child Protective Services employment | 45 |
| Denial | 3 |
| Good cause exception granted | 40 |
| Class 1 | 0 |
| Class 2 | 0 |
| Fingerprint clearance card | 40 |
| DPS issuance | 0 |
| Applicant withdrew | 2 |
| Individuals with developmental disabilities | 232 |
| Denial | 34 |
| Good cause exception granted | 51 |
| Class 1 | 1 |
| Class 2 | 1 |
| Fingerprint clearance card | 49 |
| DPS issuance | 5 |
| Applicant withdrew | 142 |
| Domestic violence and homeless shelters | 48 |
| Denial | 4 |
| Good cause exception granted | 34 |
| Class 1 | 0 |
| Class 2 | 0 |
| Fingerprint clearance card | 34 |
| DPS issuance | 1 |
| Applicant withdrew | 9 |
| Res. or nurs. care institutions and home health agencies | 496 |
| Denial | 62 |
| Good cause exception granted | 337 |
| Class 1 | 1 |
| Class 2 | 0 |
| Fingerprint clearance card | 336 |
| DPS issuance | 7 |
| Applicant withdrew | 90 |
| Teacher certification | 324 |
| Denial | 29 |
| Good cause exception granted | 262 |
| Class 1 | 2 |
| Class 2 | 1 |
| Fingerprint clearance card | 259 |
| DPS issuance | 9 |
| Applicant withdrew | 24 |

Table 5 (continued)
Disposition of Applications Closed by Program Group

| | |
|-------------------------------------|-----------|
| Charter school employment | 88 |
| Denial | 9 |
| Good cause exception granted | 72 |
| Class 1 | 1 |
| Class 2 | 0 |
| Fingerprint clearance card | 71 |
| DPS issuance | 1 |
| Applicant withdrew | 6 |
| JOBS/JTPA | 14 |
| Denial | 2 |
| Good cause exception granted | 11 |
| Class 1 | 0 |
| Class 2 | 0 |
| Fingerprint clearance card | 11 |
| DPS issuance | 0 |
| Applicant withdrew | 1 |
| Exceptional student services | 22 |
| Denial | 3 |
| Good cause exception granted | 17 |
| Class 1 | 0 |
| Class 2 | 0 |
| Fingerprint clearance card | 17 |
| DPS issuance | 0 |
| Applicant withdrew | 2 |

5. The reporting statute requires the Board to indicate the offenses where an individual applied for and, additionally, received a good cause exception. Table 6 below lists the offenses, with an indication of whether or not the Board granted someone who committed that offense a good cause exception. The information in Table 6 on the next page is drawn from the data set for good cause exceptions resolved (rather than received) between October 1, 2004, and September 30, 2005.

Table 6
Offenses from Good Cause Exception Applications

| Offense | Clearance Card Statute | Good Cause Exception Granted |
|--|-------------------------------|-------------------------------------|
| Manslaughter | 41-1758.03(C)(1) | X |
| Endangerment | 41-1758.03(C)(2) | X |
| Threatening or intimidating | 41-1758.03(C)(3) | X |
| Assault | 41-1758.03(C)(4) | X |
| Assaults on officers or firefighters | 41-1758.03(C)(8) | X |
| Indecent exposure | 41-1758.03(C)(10) | X |
| Public sexual indecency | 41-1758.03(C)(11) | X |
| Theft | 41-1758.03(C)(13) | X |
| Shoplifting | 41-1758.03(C)(15) | X |
| Forgery | 41-1758.03(C)(16) | X |
| Criminal possession of a forgery device | 41-1758.03(C)(17) | X |
| Criminal impersonation | 41-1758.03(C)(19) | |
| Fraudulent use of a credit card | 41-1758.03(C)(23) | X |
| Misconduct involving weapons | 41-1758.03(C)(28) | X |
| Concealed weapon violation | 41-1758.03(C)(32) | X |
| Possession, use, or sale of marijuana, dangerous drugs, or narcotic drugs | 41-1758.03(C)(45) | X |
| Manufacture or distribution of an imitation controlled substance | 41-1758.03(C)(46) | X |
| A criminal offense involving criminal trespass and burglary under title 13, chapter 15 | 41-1758.03(C)(54) | X |
| A criminal offense involving organized crime and fraud under title 13, chapter 23 | 41-1758.03(C)(55) | X |
| Child neglect | 41-1758.03(C)(56) | X |
| Misdemeanor offenses involving contributing to the delinquency of a minor | 41-1758.03(C)(57) | X |
| Offenses involving domestic violence | 41-1758.03(C)(58) | X |
| Kidnapping | 41-1758.03(C)(60) | |
| Felony offenses involving sale, distribution, or transportation of; offer to sell, transport or distribute; or | 41-1758.03(C)(61) | X |
| Robbery | 41-1758.03(C)(62) | X |
| Aggravated assault | 41-1758.03(C)(63) | X |